

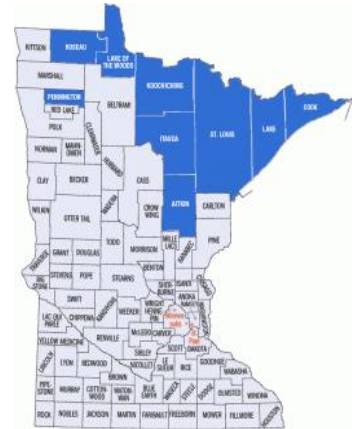
Northern Counties Land Use Coordinating Board

April 15, 2019

U.S. Environmental Protection Agency Docket Center

Office of Water Docket

Docket I.D.: EPA-HQ-OW-2018-0149



Dear Sir or Madam:

The Northern Counties Land Use Coordinating Board (NCLUCB) is a statutory joint powers board consisting of elected county commissioners from nine counties in Northern Minnesota. NCLUCB's stated purpose is to exchange information and discuss management and regulatory policies affecting the natural resources of our region with our federal and state partners. Our shared stewardship encompasses:

- 20% of Minnesota's land area
- 45% of the states regulated surface waters
- 46% of Minnesota's remaining wetlands.

NCLUCB Counties are responsible for land use regulations, shore land regulations, wetland management, forest management, outdoor recreation programs and infrastructure, aquatic invasive species initiatives, mineral management, public drainage systems, road construction and maintenance, land exchanges, solid waste management, soil and water conservation programs, and surface and ground water quality monitoring.

And in this water rich landscape, the definition of Waters of the U.S. is a fundamental, often ambiguous and frequently contentious regulatory presence. We manifestly do not question the need for comprehensive water resource management, but the jurisdictional uncertainty under existing federal definition(s) of W.O.T.U.S. must be resolved. **NCLUCB fully supports your efforts to achieve clarity and predictability on behalf of federal, state, and local water resource managers; local elected officials and their professional staff; and the farmers, businesses and constituents of our rural counties.**

However, given the many questions regarding actual application of the jurisdictional categories within the proposed WOTUS rule as they are presently defined, it is clear that despite the urgency for resolving the WOTUS crisis, a reasonable extension to the comment period and/or final rule is necessary:

1. Additional consultations with state and local regulators are essential. The rescheduled webcast, the forum with a few state water regulators (with no accessible transcript of those discussions), and the concurrent legislative deliberations on 404 assumption mandate a more thorough dialog within the states regarding the interpretation and implementation of the rule.
2. Further articulation of the jurisdictional determination process at the watershed, county, region and/or state level must be outlined. Is the process a negotiation among federal, state and

(hopefully) local water regulatory entities or will the definitions be a federally unilateral process? Will those definitions be sufficiently flexible to reflect regional hydrologic, historic and administrative variations or adopt a national set of definitions with little latitude for local input and regional variation?

3. Ultimately the Waters of the U.S. rule is a map. Given the extensive GIS capabilities of state and local government in Minnesota, the process by which those state and local resources will be engaged is critical for the expedient delivery of the rule/map. Is the jurisdictional map, the timeframe for its completion, the development of the platform, the financial resources necessary and the approval process articulated within the rule? And will “the Rule”, complete with definitions, procedures and enforcement authority move forward without a map or mandated mapping component, thereby replicating the jurisdictional overlap, regulatory uncertainty, inconsistent application and time/cost issues that have plagued this issue for years?

In conclusion, NCLUCB counties look forward to a reasonable, well defined and mapped Waters of the U.S. and to participating with the State of Minnesota in achieving this goal. Thank you for your consideration.

Sincerely,

Anne Marcotte, NCLUCB Chair, Commissioner, Aitkin County